

SRĐAN ŠARKIĆ\*

## The Law of Property in Mediaeval Serbia

### *The Concept of The Thing and Ownership*

#### *I. A „Thing“ – The Concept and Division*

The Serbian mediaeval law of property was concerned essentially with things (*res*), their acquisition and their transfer. The things (*res*) were considered as objects and as rights in objects, that had economic value. However, Serbian mediaeval law does not abstractly use the idea of a thing (*stvar* in Serbian language). In every case, Serbian legal sources quote and name any single thing that was the object of the transaction. Only one fragment in the Serbian translation of *The Syntagma of Matheas Blastares*<sup>1</sup> mentions the Roman division on *res mobiles* and *res immobiles* (movable and immovable things, *dvižima ili nedvižima*).<sup>2</sup>

The oldest expression to designate property was *dobitak*. Literally, the word means *gain, asset*, but in the legal documents from 13<sup>th</sup> and 14<sup>th</sup> century, the term was primarily understood as *cattle, livestock*, which was considered the most primitive form of a man's fortune. Such a concept could be clearly seen in King Dušan's treaty with Dubrovnik (Ragusa)<sup>3</sup> from 1345, where the duty on *cattle* [*dobitak*] *which goes to Dubrovnik* (*od*

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<sup>1</sup> Byzantine nomokanonic miscellany put together in 24 titles (each title has a sign of one of Greek alphabet letter) by the monk Matheas Blastar from Thessaloniki, came to be known in Serbia in two translations, a full version and an abridged one.

<sup>2</sup> S. NOVAKOVIĆ, *Matije Vlastara Sintagmat*. Beograd 1907, p. 216. In the original Greek text of *Syntagma*, beside the division on movable and immovable things (πράγματα κινητὰ ἢ ἀκίνητα) we can find the idea of selfmovable (αὐτοκίνητα) things, which was omitted in the Serbian translation. See *Μαθαίου τοῦ Βλαστάρεως Σύνταγμα κατὰ Στοιχείον*. edition G. A. RALLIS and M. POTLIS, Athenes 1859, p. 207. Cf. C. I. VI, 61,6; VII, 37,2; VII, 37,3 and IX, 13,1, which mentions *res mobiles vel immobiles seu se moventes*.

<sup>3</sup> During the political independence of the Serbian Mediaeval State (1180–1459), its most important commercial partner was the small City-Republic of Dubrovnik (Latin *Ragusium*, Greek *Ραγούσιον*, Italian *Ragusa*, today in Croatia). Although the community of Dubrovnik recognized the supreme authority of the Byzantium (until 1205), Venice (until 1358) and Hungary (until 1526), the Republic enjoyed a large amount of autonomy and had the ability to conclude international treaties. The merchants from Dubrovnik had a great interest in maintaining good relations with Serbian rulers and in increasing the trade with Serbia and Bosnia. Therefore, the founder of Serbian dynasty, Stefan Nemanja (1168–1196), had already signed the first treaty with Dubrovnik, and his example has been followed by all Serbian monarchs. The treaties with Dubrovnik became an important source of Serbian mediaeval law. On sources of Serbian mediaeval law (including the treaties with Dubrovnik), see S. ŠARKIĆ, *A*

*dobitka koji grede u Dubrovnik*) was mentioned.<sup>4</sup> In the same meaning the word *dobitak* was used in King Dušan's charter presented to the monastery of Hilandar (1334–1346): *And what the cattle graze (I što pasu dobitak...)*.<sup>5</sup> However, in 13<sup>th</sup> century documents, *dobitak* also began to designate the abstract idea of property. For example, when Ragusan doge Johanes Dandulus confirms his friendship with the Serbian King Stefan Vladislav (around 1237), he says that the King can freely enter and leave Dubrovnik (Ragusa) with *all his property (dobitku tvoemu vsakomu, s dobitkom vsakim tvoim)*.<sup>6</sup> In the treaty from 1282, King Milutin says that the Ragusans (Dubrovčani) can *leave [Serbia] with all their property (da si izidut s vsem svojim dobitkom)*.<sup>7</sup>

In several cases Serbian legal sources differentiate between *živi dobitak*, literally *live gain, live asset*, i.e. cattle, livestock, and *mrtvi dobitak*, literally *dead or inanimate gain*, i.e. the immovable things.<sup>8</sup> However, in Article 144 of Dušan's Law Code (1354)<sup>9</sup> the whole property of an individual calls *his house and his cattle (njegova kuća i njegov dobitak)*, where the word *kuća* (lit. *house*) could designate immovable property, and *dobitak* all movable things, not only cattle.<sup>10</sup>

The term which most frequently designates the whole property is *imenije* or *imanije* = property, holding, estate, homestead (from verb *imeti* or *imati* = to have). In Serbian legal documents, *imanije*, as the object of property rights is often opposed to the *glava* (lit. *head*), as the subject of legal acts (natural person, individual).<sup>11</sup> That is clear from two treaties with Dubrovnik (1349 and 1357) where the same formula has been repeated: *And that they [Ragusans] circulate within my Empire<sup>12</sup> with their heads [as individuals] and their property...without any disturbance (Da gredu svojimi glavama, imanijem svojim... bez*

középkori szerb jog forrásai. Acta Facultatis Politico-Iuridicae Universitatis Scientiarum Budapestinensis de Rolando Eötvös nominatae, tom. XXXVIII – XXXIX (ann. 2001 – 2002), pp. 161–170.

<sup>4</sup> S. NOVAKOVIĆ, *Zakonski spomenici srpskih država srednjega veka*, Beograd 1912, p. 167.

<sup>5</sup> Ibid. p. 414, XIII. Hilandar (Greek Χελανδάριον) is Serbian monastery on Holy Mountain (peninsula Athos in Greece).

<sup>6</sup> In Latin version of the document *dobitak* is translated as *habere (alio vestro habere, toto habere vestro)*. Ibid. pp. 139, III; 140, IV; 141, VI; 142, VII.

<sup>7</sup> Ibid. p. 156, III.

<sup>8</sup> Ibid. pp. 479, IV; 480, VIII; 483, VI.

<sup>9</sup> Dušan's Law Code was the most important legal source in mediaeval Serbia, issued at State Councils (Serbian *Sabori*, singular = *Sabor*, representative assemblies of the most powerful lords) held in Skoplje (today capital of Former Yugoslav Republic of Macedonia) on 21 May 1349 (the first 135 articles) and in Serres (Σέρραι, in the Middle Ages very important Byzantine town in Greek Macedonia, conquered 1354 by Serbs) five years later (articles 136–201). See S. ŠARKIĆ, op. cit. pp. 168–169.

<sup>10</sup> Edited by S. NOVAKOVIĆ, *Zakonik Stefana Dušana cara srpskog 1349 i 1354*, Beograd 1898 (reprint 2004), pp. 111 and 232. The English text of all the articles quoted in this work is according to the translation of Malcolm BURN, *The Code of Stephan Dušan. Tsar and Autocrat of The Serbs and Greeks*. The Slavonic (and East European) Review 28, London 1849–50, pp. 198–217 and 516–539 (article 144, p. 526).

<sup>11</sup> See S. ŠARKIĆ, *Natural Persons (Individuals) and Legal Persons (Entities) in Serbian Mediaeval Law. Zbornik radova Vizantološkog instituta* 45 (2008), pp. 223–229.

<sup>12</sup> I.e. The Empire of Stephan Dušan. In 1346 Serbian King Stephan Dušan became more powerful than Byzantine Emperor and he proclaimed himself *the true-believing Tsar [Emperor] and autocrat of the Serbs and the Greeks*.

*zabave po zemlji carstva mi*).<sup>13</sup> Dušan's Law Code uses the term *imanije* as well, designating the whole property (all movable and immovable things). Article 70, regulating the division of family estate, mentions *brothers or father or sons, or any other, independent by bread or property... (ili bratenci, ili otac ot sinov, ili in kto odelan hlebom i imanijem)*.<sup>14</sup>

## II. Ownership

Ownership is defined as a collection of rights to use and enjoy property, including the right to transmit it to others. According to the rules of Roman law full ownership (*dominium*) gave the owner three important rights: a) *ius utendi* – the right to use the property; b) *ius fruendi* – the right to enjoy the fruits and profits of the property, and c) *ius abutendi* – the right to consume or destroy the property. However, the concept of ownership in feudal law is different: ownership right was not unic, rather divided. The title or property which the sovereign in feudal States is considered as possessing in all the lands of the kingdom was called *dominium eminens*. *Dominium directum* (right of proper ownership) was the right of the superior or the lord, as distinguished from that of his vassal or tenant. The right of the vassal or tenant was *dominium utile* (useful or beneficial ownership): the usufruct, or right to the use and profits of the soil, as distinguished from the *dominium directum* or ownership of the soil itself.<sup>15</sup>

In mediaeval Serbian law we can find two essential concepts having to do with ownership: *baština* (hereditary estate) and *pronoia* (fief). *Baština* could belong to the noblemen (*vlastela*), to the Church and to the villagers (*meropsi*).

The hereditary estate holders had a full and unlimited ownership right to their manor (*baština*). The expression *baština* comes from the old Slavonic word *bašta* = *father*, and indicates the hereditary estate (*očevina*), with reference to the real estate which passes from father to the heirs of his body (analogous to the Latin term *patrimonium*, derived from the word *pater* = *father*, as well).<sup>16</sup> The lord, who was the hereditary estate holder, could freely consume his property: sell it, give it as a present, or alienate it in any other way, as is unequivocally said in Article 40 of Dušan's Code: ... *and they may be disposed freely, submitted to the Church, given for the soul*<sup>17</sup> *or sold to another (da su volni nimi i pod crkov dati, ili za dušu odati, ili inomu prodati komu ljubo)*.<sup>18</sup> It was clearly pointed out in article

<sup>13</sup> *Zakonski spomenici*, pp. 169, I; 179, I.

<sup>14</sup> BURR, p. 211; NOVAKOVIĆ, *Zakonik*, pp. 57 and 189.

<sup>15</sup> Cf. *Black's Law Dictionary*, St. Paul, Minn., pp. 486–487.

<sup>16</sup> See V. MAŽURANIĆ, *Prinosi za hrvatski pravno-povjestni rječnik*. Zagreb 1908–1922 (reprint 1975), pp. 45–48, and P. SKOK, *Etimologijski rječnik hrvatskoga ili srpskoga jezika*, edited by M. Deanović and Lj. Jonke, with a collaboration of V. Putanec, vol. I, Zagreb 1971, p. 120.

<sup>17</sup> Formula *given for the soul (za dušu odati)* expresses the freedom of testamentation and corresponds to the capacity to make a will. See S. ŠARKIĆ, *The Concept of the Will in Roman, Byzantine and Serbian Medieval Law*, *Fontes minores XI*, *Forshungen zur byzantinische Rechtsgeschichte*, herausgegeben von L. Burgmann, Frankfurt am Main 2005, pp. 427–433.

<sup>18</sup> BURR, p. 206; NOVAKOVIĆ, *Zakonik*, pp. 36 and 171.

41 of the Code that *baština* was a hereditary manor: *If any lord have no child, or if he have it die, then upon his death the inheritance remains empty until there be found someone of his kin up to the third cousin, and to him shall the inheritance fall (Koi vlastelin ne uzima dece, ali paki uzima decu, tere umre, po egove smrti baština pusta ostane do-gde se obrete od egova roda, do tretiega bratučeda; ta-zi da ima egovu baštinu).*<sup>19</sup> Dušan's Law Code guaranteed security of property to the hereditary estate holders by using the terms *those patrimonies are confirmed (baštine da su tvrde)*.<sup>20</sup> The Emperor could deprive the hereditary estate holder of his manor *only in the case of treason, and not for any other trespass (razve jedine nevere, a ni za jedinoe ino sagrešenje)*.<sup>21</sup>

The hereditary estate of a nobleman consisted of full ownership limited by military service (*vojevanje*) and payments of a special land-tax (*soće*). According to Article 42 of Dušan's Code worldly lords *shall pay the corn-due (soće) and provide soldiers to fight (razve da daju soće i vojsku da vojuju po zakonu)*.<sup>22</sup> The corn-due (*soće*)<sup>23</sup> was collected from noblemen and commoners (*sebri*), but the lord had to add one *perper*<sup>24</sup> or *kabao*<sup>25</sup> of corn and give it to the Emperor.

The hereditary estate belonging to the Church had no above mentioned burdens, so the sovereign's supreme property right (*dominium eminens*) was only theoretical. This is clearly declared in Article 26 of the Code: *Churches situated on the lands of my Empire, my majesty releases from all services*<sup>26</sup> *both great and small (Crkvi vse što se obretaju po zemli carstva mi osvobodí carstvo mi ot vseh rabot malih i velikih)*.<sup>27</sup> This means that the churches and monasteries did not have obligation to pay the *soće* to the Emperor or to provide soldiers for battle. Serbian legal sources do not mention any confiscation of Church manors.

The villager (*meropah*) could dispose of his land, but his property right was a dependent hereditary estate (a kind of *dominium utile*) burdened with certain feudal duties. Providing that the supply of labour was maintained, the *meropah* (villager) could even sell or alienate his land in any other way. This could be clearly seen in Article 174 of Dušan's Code:

<sup>19</sup> BURR, p. 206; NOVAKOVIĆ, *Zakonik*, pp. 37 and 171. The words *up to the third cousin (do tretiega bratučeda)* indicate the eighth degree of relatives.

<sup>20</sup> Articles 39 and 40, BURR, pp. 205–206; NOVAKOVIĆ, *Zakonik*, pp. 36 and 170–171.

<sup>21</sup> The Emperor's Dušan charter to the lesser lord (*vlasteličić*) Ivanko Probišćitović from May 28, 1350. Edition A. SOLOVJEV, *Odabrani spomenici srpskog prava od XII do XV veka*. Beograd 1926, p. 151.

<sup>22</sup> BURR, p. 206; NOVAKOVIĆ, *Zakonik*, pp. 38 and 172.

<sup>23</sup> See the article *Soće*, by M. BLAGOJEVIĆ in *Leksikon srpskoga srednjeg veka (The Lexicon of Serbian Middle Ages)*, Beograd 1999, pp. 683–685.

<sup>24</sup> „The *perper* was the Serbian money of account, like the contemporary English mark. The word is a corruption of the Greek ὑπερπρος, meaning gold *tried in the fire*.” BURR, p. 201. On Serbian money see detailed study by V. IVANIŠEVIĆ, *Novčarstvo u srednjovekovnoj Srbiji*. Beograd 2001.

<sup>25</sup> One *kabao* = 16 kg. According to M. BLAGOJEVIĆ. *Soće – osnovni porez srednjovekovne Srbije (Soće – The Basic and General Tax in The Medieval Serbia)*, *Glas Srpske Akademije Nauka i Umetnosti, Odeljenje istorijskih nauka, knjiga 11*. CCCXC (2001), pp. 1–44, one Serbian *kabao* (tub) had the weight in wheat being between 61,5 and 62 kilos.

<sup>26</sup> *Rabota*, the general Slavonic word for customary labour service. Greek ἀργαρία, which is a word of Persian origin which originally meant impressment as a courier. BURR, p. 203.

<sup>27</sup> BURR, p. 203; NOVAKOVIĆ, *Zakonik*, pp. 27 and 162.

*Workers on the land who have their own inherited property, land vineyards or purchased estate, are free to dispose of their own lands and vineyards, to give them as dowries, to give them to the Church, or to sell them, but there must always be a labourer on that place for him who is lord of that village. If there be no labourer in that place for him who is lord of the village, the same lord is free to take the vineyard and the fields (Ljudije zemljane koji imaju svoju baštinu, zemlju i vinograde i kupljenice, da su voljni ot svojih vinograd i ot zemlje, u prikiju odati, ili crkvi podložiti ili prodati, a vinu da jest rabotnik na tom-zi meste onomu-zi gospodaru čije bude selo. Ašte li ne budet rabotnika, na onom zi mestu onomu gospodaru čije bude selo, da jest voljan uzeti one-zi vinograde i njivije).*<sup>28</sup> Article 67 adds: ... such payment men make and work that they do, so much land let them have (... kako platu plaćaju i rabotu rabotaju, tako-zi i zemlju da drže).

<sup>29</sup>

The institution of the fief (*dominium directum*) was transmitted to Serbia from Byzantium and was called after the Greek word *πρόνοια* (*pronoia*), which was used in the Byzantine Empire from the eleventh century.<sup>30</sup> The term *pronoia* is mentioned for the first time in Byzantine sources in the middle of the eleventh century when Emperor Constantine IX Monomachos (Μονομάχος) gave a village of Mangana (Μάγγανα) as a fief to his prime minister Constantine Leichoudes (Λειχούδης) and for his occasion he issued the immunity Charter (καὶ τὴν τῶν Μαγγάνων ἀνέθετο πρόνοιαν καὶ τὰ περὶ ἐλευθερείας αὐτῶν ἐνεπίστευσε ἔγγραφα).<sup>31</sup> In Greek the word *πρόνοια* means *care, foresight, forethought, administration* and in the Church terminology it means *Providence*. The word got its special meaning because the imperial government used to give small manors on administration (εἰς πρόνοιαν or κατὰ λόγον προνοίας), and only the land acquired in that way was called *pronoia*.

*Pronoia* was mentioned in Serbia for the first time in the famous Charter presented by King Milutin to the monastery of St. George, near Skoplje (1299–1300). The Charter mentions a certain Manota, who acquired by dowry the land of his father in law Dragota, in the place named Rečice. But later on, King Milutin decided to give the whole area to the monastery of St. George. Making the revision of property rights on that territory, the King's servants established the fact that Dragota's manor was not a hereditary estate (*baština*) but *pronoia* – a fief, a land held by military tenure. That was the reason why Manota could not

<sup>28</sup> BURR, p. 533; NOVAKOVIĆ, *Zakonik*, pp. 136 and 250.

<sup>29</sup> BURR, p. 211; NOVAKOVIĆ, *Zakonik*, pp. 55 and 187.

<sup>30</sup> The most important works on *pronoia* are: G. OSTROGORSKIY, *Pronija, prilog istoriji feudalizma u Vizantiji i u južnoslovenskim zemljama. Complete works of G. Ostrogorsky, book 1*, Beograd 1969, pp. 119–342; P. LEMERLE: *Recherches sur le régime agraire à Byzance: la terre militaire à l'époque des Comnènes*, Cahiers de civilisation médiévale 2 (1959), pp. 265–281; A. HOHLWEG: *Zur Frage der Pronoia in Byzanz*, Byzantinische Zeitschrift 60 (1967), pp. 288–308; G. OSTROGORSKY: *Die Pronoia unter den Komnenen*, Zbornik radova Vizantološkog instituta 12 (1970), pp. 41–54; R. RADIĆ: *Novi podaci o pronijarima iz prvih decenija XIV veka (New Data about Pronoiars from The first Decade of The Forteenth Century)*, Zbornik radova Vizantološkog instituta 21 (1982), pp. 85–93. On Serbian *pronoia* see S. NOVAKOVIĆ, *Pronijari i baštinci (spahije i čitluk sahibije). Prilog k istoriji nepokretne imovine u Srbiji XIII do XIX veka*, Glas 1 (1887), pp. 1–102 = in *Vaskrs države srpske i druge studije, Klasici jugoslovenskog prava, knjiga 1*, Beograd 1986, pp. 161–223.

<sup>31</sup> *Ioannis Zonaræ Epitomæ historiarum*, ed. M. PINDER, III, Bonnæ 1841–1897, p. 670, 7–9.

acquire Dragota's land by dowry, except if he had accepted the military service like his father in law had.<sup>32</sup>

The text from St. George's Charter clearly says that the fief holder (*pronijar*) does not have full ownership right over land. He had *ius utendi* – the right to use the property and *ius fruendi* – the right to enjoy the fruits and profits of the property. But he does not have the most important right – *ius abutendi* (the right to consume or destroy the property). A *pronoia* was land held by a military tenure and it could be succeeded only in case when a fief holder's son accepted military service. A fief always remained in the Tsar's *dominium* and its tenant had no right of ownership, could not sell it or alienate it in any other way, as was strictly forbidden in Article 59 of Dušan's Code: *No man is free to sell or buy a fief, who has not an hereditary estate. And no man may subject fief-lands to the Church: and if they do so, it is not valid (Proniju da nest voljan nikto prodati ni kupiti kto ne ima baština; ot pronijarske zemlje da nest voljan nikto podložiti pod crkov; ako li podloži da nest tvrdo)*.<sup>33</sup> Though the legal documents clearly make a juridical difference between a hereditary estate (*baština*) and a fief (*pronoia*) it seems that in practice that difference was not clearly marked in the fourteenth century. That fact can be marked in Dušan's Code: Article 68 defining the amount of compulsory labour required from the villagers (*meropsi*), speaks only about the services due to the fief holder (*pronijar*) and not to any lord (*vlastelin*). That proves only, according to G. Ostrogorsky, that in Dušan's Law Code the word *pronijar* (fief holder) replaced the common term of feudal lord and that the relationships on manors, either being a fief or a hereditary estate, were in fact similar.<sup>34</sup> As all the lords in Serbia were *tenants in capite*, a fief was generally given to its beneficiaries by the monarch himself. However, sources show us an exception of that rule: by a Greek Chrysobull of Dušan's half-brother Simeon-Siniša, lord of Thessaly (Θεσσαλία) and Epiros (Ηπειρος), confirming on January 1361 the estate of his great constable John Tzaphas Oursinos Doukas. Among the great constable's manors, the Chrysobull mentions the village of Phiatza, which John Tzaphas gave as a fief (δία πρνοίας) to his nephew and namesake John Tzaphas.<sup>35</sup> This fact puts forward the question of whether it was possible in Serbia for a lord to give a fief (*pronoia*) to his vassal, or if only a monarch could do that. Discussing that problem, S. Novaković points out Article 106 of Dušan's Law Code, which among the lords servants (*dvorani*) mentions *pronijarevići* (sons of a fief holder). According to S. Novaković this is proof that the great lords in Serbia had their own fief holders (*pronijari*), who were their soldiers, although there is no source which can confirm such a relationship.<sup>36</sup> We can accept the interpretation that *pronijarević* was a son of fief holder, but nothing proves that he had his own fief (*pronoia*). On contrary, being poor, without his own fief

<sup>32</sup> *Zakonski spomenici*, pp. 614–615; *Odabrani spomenici*, pp. 75–76.

<sup>33</sup> BURR, p. 209; NOVAKOVIĆ, *Zakonik*, pp. 50 and 182.

<sup>34</sup> G. OSTROGORSKY, *Pronija*, p. 293.

<sup>35</sup> A. SOLOVJEV – V. MOŠIN, *Grčke povelje srpskih vladara (Diplomata graeca regum et imperatorum Serviae)*, Beograd 1936 (reprint London 1978), p. 234.

<sup>36</sup> S. NOVAKOVIĆ, *Pronijari i baštinici*, p. 36.

(*pronoia*), *pronijarević* (the son of a fief holder) was obliged to become lord's servant.<sup>37</sup> It seems that the case of John Tzaphas and his nephew is the only example of a fief (*pronoia*) given by a lord to his vassal. But, as G. Ostrogorsky said, this sole case could not be the basis for the general conclusions. John Tzaphas was a nobleman of a foreign origin, lived in Epiros, the region that was under a strong influence of the West and where social relations were very different from Serbian ones. Even Simeon-Siniša, Dušan's half-brother, did not consider himself as a Serb<sup>38</sup> and under his rule Epiros and Thessaly were in fact separated from Serbia.<sup>39</sup> The Emperor's Dušan Greek Chrysobull from June 1352, to the monastery of Xenophontos (Ξενοφώντος) in the Holy Mountain, mentions *the land, held before by the knight Mouzakios in the area of Myriophitos* (την γήν, ἣν προκατεῖχε καβαλάριος ὁ Μουζάκιος ἐν τῇ τοποθεσίᾳ τοῦ Μυριοφύτου).<sup>40</sup> The Greek word καβαλάριος = *knight* (from Middle Ages Latin *caballarios* and French *chevalier*) designated the honourable title for the knights in Byzantium and Serbia, originating from Western European countries. But it remained unclear whether Muzakios' manor was a fief (*pronoia*) or hereditary estate (*baština*). In the fifteenth century the threat of Turkish conquest caused the strengthening of the fief-system. That was the reason why the fiefs were given not only to the lesser lords, but to the highest dignitaries as well.<sup>41</sup>

<sup>37</sup> T. TARANOVSKI, *Istorija srpskog prava u nemanjičkoj državi I*. Beograd 1931, p. 38 = *Klasici jugoslovenskog prava, knjiga 12*. Beograd 1996, p. 68, says that if *pronijarević* (son of a fief holder) had his own fief (*pronoia*) he would not be called *pronijarević*, but *pronijar* (fief holder). Cf. A. SOLOVJEV, *Zakonik cara Stefana Dušana 1349. i 1354. godine*. Beograd 1980, p. 263 adds that fief (*pronoia*) could be inherited only by the oldest son. Other sons of a fief holder (*pronijarevići*) did not want to work as commoners (*sebri*), so they entered into the service of the great lords, looking for an opportunity in war to become rich and to acquire their own fief or hereditary estate. According to the author's opinion, that was the case of a lesser lord Ivanko Probištitović, who became rich being a despot's John Oliver servant, bought land and houses, which the Emperor confirmed to him later as a hereditary estate.

<sup>38</sup> His signature on charters was: ΣΥΜΕΩΝ ΕΝ ΧΡΙΣΤΩ ΤΩ ΘΕΩ ΠΙΣΤΟΣ ΒΑΣΙΛΕΥΣ ΚΑΙ ΑΥΤΟΚΡΑΤΩΡ 'ΡΩΜΑΙΩΝ ΚΑΙ ΣΕΡΒΩΝ, Ο ΠΑΛΑΙΟΛΟΓΟΣ.

<sup>39</sup> G. OSTROGORSKY, *Pronija*, p. 301.

<sup>40</sup> *Diplomata graeca*, p. 186. Cf. and p. 448.

<sup>41</sup> For the examples see OSTROGORSKY, *Pronija*, pp. 303–310.

## SRĐAN ŠARKIĆ

## A TULAJDONJOG A KÖZÉPKORI SZERBIÁBAN

## (Összefoglalás)

A középkori szerb jog nem használja a dolog fogalmát elvont értelemben (szerb nyelven *stvar*). A szerb jogforrások esetről esetre neveznek meg minden dolgot és egyedileg hivatkoznak minden dologra, amely az adott jogügylet tárgyát képezte.

A legkorábbi kifejezés, amely a tulajdont jelölte, a *dobitak* volt. Szó szerint hasznót, vagyoni előnyt jelent, ám a 13. és a 14. századi jogi emlékekben e kifejezéssel elsődlegesen a szarvasmarhát, a haszonállatot illették. Mindamellett azon kifejezés, amellyel a leggyakrabban jelölik a tulajdon egészét az *imenije* vagy az *imanije*, mely tulajdont, birtoklást, földbirtokot, tanyát jelent (eredete az *imeti* vagy *imati* ige, amely birtokolni jelentéssel bír).

A középkori szerb jogban két alapvető fogalmat találunk a tulajdonnal kapcsolatban: *baština* (örökletes földbirtok) és *pronoia* (hűbértok). A *baština* a nemesekkel (*vlastela*), az egyházzal és a falvak lakosaival (*meropsi*) összefüggésben használható.

A hűbértok intézménye (*pronoia*) bizánci közvetítéssel jutott el Szerbiába, és azt a Milutin király által a Skopje közelében lévő Szt. György kolostor részére kiadott oklevélben (1299–1300) említették először Szerbiában.